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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,624	02/05/2002	Ben A. Lear	M-16844 US	8735
32605	7590	01/27/2009	EXAMINER	
MACPHERSON KWOK CHEN & HEID LLP			MAIS, MARK A	
2033 GATEWAY PLACE			ART UNIT	PAPER NUMBER
SUITE 400				2419
SAN JOSE, CA 95110			MAIL DATE	DELIVERY MODE
			01/27/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## **DETAILED ACTION**

### ***Proposed Amendment***

1. The proposed Amendment will not be entered because it raises new issues that require further search and consideration. It is not clear what "electrically best-performing" pertains to [e.g., best power conservation? Shortest path? Shortest transit time? Least hops? Least delay time (input queues; output queues; both input and output queues; etc.)? Least cost across different networks? Said another way, while a traceroute appears to allude to a term of art, it is unclear what metric(s) is(are) being used to determine the said "electrically best-performing." It appears to the examiner that "electrically best-performing" is an overly broad term whose limitation may be met with any electric-related metric.

### ***Response to Arguments***

2. Applicant's arguments filed on January 15, 2009, have been fully considered but they are not persuasive.

3. Applicants state that Brady et al. fails to disclose mapping trace routes in a trace cache and determining the electrically best-performing mode [**See Applicants' Amendment dated January 15, 2009, page 17, paragraph 4 to page 25, paragraph 2**]. Applicants make similar

arguments for proposed new claims [**See Applicants' Amendment dated January 15, 2009, page 26, paragraph 3 to page 28, paragraph 1**]. Since the claim amendments were not entered, the arguments were not considered.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK A. MAIS whose telephone number is (571)272-3138. The examiner can normally be reached on M-Th 9am-8pm.
5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing F. Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 22, 2009

/Mark A. Mais/

Examiner, Group Art Unit 2419